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9 **Attorneys for Plaintiff/Counterdefendant, ROANN CELIS-CAPISTRANO,**
10 **an individual**

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT**

13 **ROANN CELIS-CAPISTRANO, an**
14 **individual**

15 **Plaintiff,**

16 **vs.**

17 **ELAINE ANGELICA LINGA, an**
18 **individual and also doing business**
19 **as INVESTED LIFESTYLE and**
20 **SIMPLYDRIVENLIFE and Does 1-**
21 **50**

22 **Defendants.**

23 **ELAINE ANGELICA LINGA,**
24 **individually,**
25 **Counterclaimant,**

26 **vs.**

27 **ROANN CELIS-CAPISTRANO,**
28 **individually,**
Counterdefendant

Case No.: 2:23-cv-06283-PA-AS

PLAINTIFF/COUNTERDEFENDANT
ROANN CELIS-CAPISTRANO'S
ANSWER AND AFFIRMATIVE
DEFENSES TO COUNTERCLAIMS;
DEMAND FOR JURY TRIAL

HONORABLE PERCY ANDERSON,
U.S. DISTRICT COURT JUDGE

PLAINTIFF/COUNTERDEFENDANT, ROANN CELIS-CAPISTRANO'S**ANSWER****AND AFFIRMATIVE DEFENSES TO COUNTERCLAIMS**

Plaintiff/Counterdefendant, ROANN CELIS-CAPISTRANO'S (hereinafter "Counterdefendant") by and through her counsel, hereby Answers the Defendant/Counterclaimant's (hereinafter "Counterclaimant") Counterclaims and asserts Affirmative Defenses as follows:

COUNTERDEFENDANT'S ANSWER TO COUNTERCLAIMANT'S**COUNTERCLAIMS**

Counterdefendant generally denies all allegations except those specifically admitted.

INTRODUCTION

44. Counterdefendant lacks knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 44 of the Counterclaims, and on that basis denies the averments.

45. Counterdefendant lacks knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 45 of the Counterclaims, and on that basis denies the averments.

47. Denied.

48. Counterdefendant lacks knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 48 of the Counterclaims, and on that basis denies the averments.

49. Counterdefendant lacks knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 49 of the Counterclaims, and on that basis denies the averments.



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1 50. Counterdefendant lacks knowledge or information sufficient to form a belief
2 as to the truth of the averments contained in Paragraph 50 of the Counterclaims, and
3 on that basis denies the averments.

4 51. Counterdefendant denies that she is IMG's representative. Moreover,
5 Counterdefendant denies that she improperly filed a copyright infringement lawsuit
6 in this Court. Counterdefendant denies that any previous case was "summarily
7 dismissed" as opposed to voluntarily dismissed prior to countercomplainant making
8 a first appearance.

9 PARTIES, JURISDICTION, VENUE

10 52. Counterdefendant Admits.

11 53. Counterdefendant Admits that she is now a resident of the Philippines. The
12 balance of Paragraph 53 contains conclusions of law as to which no response is
13 required.

14 54. Paragraph 54 of the Counterclaims contain conclusions of law as to which no
15 response is required.

16 **FIRST COUNTERCLAIM DECLARATORY JUDGMENT FOR NON-** 17 **INFRINGEMENT**

18 55. Counterdefendant incorporates by reference paragraphs 1 to 54 above and the
19 answers previously provided within paragraphs 1 to 54 as though fully setforth
20 herein.

21 56. Denied, except to the extent Paragraph 56 of the Counterclaims contain
22 conclusions of law as to which no response is required.

23 57. Counterdefendant admits.

24 58. Counterdefendant admits that a previous case was filed, but prior to
25 counterclaimant being served or entering an appearance, the prior case was
26 voluntarily dismissed by Counterdefendant.

27 59. Counterdefendant admits that Youtube was furnished a copy of the instant
28



lawsuit and the Counterclaimant's infringing work was removed. The balance of this paragraph is denied, except to the extent Paragraph 59 of the Counterclaims contain conclusions of law as to which no response is required.

60. Counterdefendant admits that she brought a previous copyright infringement claim against counterclaimant, but the case was voluntarily dismissed without prejudice prior to Counterclaimant being served or an appearance made by or on behalf of countercomplainant. The balance of this paragraph is denied, except to the extent Paragraph 60 of the Counterclaims contain conclusions of law as to which no response is required.

SECOND COUNTERCLAIM MISREPRESENTATION UNDER 17 U.S.C. 512(f)

61. Counterdefendant incorporates by reference paragraphs 1 to 60 above and the answers previously provided within paragraphs 1 to 60 as though fully set forth herein.

62. Denied, except to the extent Paragraph 62 of the Counterclaims contain conclusions of law as to which no response is required.

63. Denied, except to the extent Paragraph 63 of the Counterclaims contain conclusions of law as to which no response is required.

64. Denied, except to the extent Paragraph 64 of the Counterclaims contain conclusions of law as to which no response is required.

65. Denied, except to the extent Paragraph 65 of the Counterclaims contain conclusions of law as to which no response is required.

OBJECTIONS TO COUNTERCLAIMANT'S PRAYER FOR RELIEF

A. Counterdefendant denies that Counterclaimant is entitled to a declaration that Counterclaimant did not infringe on Counterdefendant's alleged Copyright(s) and respectfully asks that this Court deny this prayer;



- 1 B. Counterdefendant denies that Counterclaimant is entitled to a declaration that
 2 Counterclaimant's use of Counterdefendant's video was a Fair Use under
 3 Lenz v. Universal Music Corp., 801 F.3d 1126 (9th Cir. 2015), and
 4 respectfully asks that this Court deny this prayer;
- 5 C. Counterdefendant denies that she and her counsel knowingly materially
 6 misrepresented that Counterclaimant's video was infringing in violation of 17
 7 U.S.C. 512(f) and respectfully asks that this Court deny this prayer;
- 8 D. Counterdefendant denies that she and her counsel unreasonably and
 9 vexatiously multiplied the proceedings in violation of 28 U.S.C. § 1927 and
 10 respectfully asks that this Court deny this prayer;
- 11 E. Counterdefendant denies that Counterclaimant is entitled to recover her
 12 damages, costs, and attorneys fees and respectfully asks that this Court deny
 13 this prayer;
- 14 F. Counterdefendant denies that Counterclaimant has a right to pre-judgment
 15 and post-judgment interest and respectfully asks that this Court deny this
 16 prayer.

17 **AFFIRMATIVE DEFENSES**

18 **FIRST AFFIRMATIVE DEFENSE**

19 **(STATUTES OF LIMITATION)**

20 66. As a separate and affirmative defense to each cause of action pleaded in the
 21 Counterclaims, answering Counterdefendant alleges that the Counterclaims,
 22 and each claim, is barred in whole or in part by the applicable statutes of
 23 limitation.

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1 SECOND AFFIRMATIVE DEFENSE
2 (FAILURE TO STATE A CLAIM)

3 67. As a separate and affirmative defense to each claim pleaded in the
4 Counterclaims, answering Counterdefendant alleges that the Counterclaims,
5 and each Claim, fails to allege facts sufficient to state a cause of action.
6

7 THIRD AFFIRMATIVE DEFENSE
8 (LACK OF CULPABLE INTENT)

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10 68. As a separate and affirmative defense to each claim pleaded in the
11 Counterclaims, answering Counterdefendant alleges that the Counterclaims,
12 and each claim, is barred because of answering Counterdefendant's lack of
13 culpable intent.
14

15 FOURTH AFFIRMATIVE DEFENSE
16 (UNCLEAN HANDS)

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18 69. As a separate and affirmative defense to each claim pleaded in the
19 Counterclaims, answering Counterdefendant alleges that the Counterclaims,
20 and each claim, is barred in whole or in part by the doctrine of unclean hands.
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1 FIFTH AFFIRMATIVE DEFENSE
2 (ESTOPPEL AND WAIVER)
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4 70. As a separate and affirmative defense to each claim pleaded in the
5 Counterclaims, answering Counterdefendant alleges that the Counterclaims,
6 and each claim, is barred in whole or in part by the doctrine of estoppel
7 and/or waiver.
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9 SIXTH AFFIRMATIVE DEFENSE
10 (SAFE HARBOR UNDER 17 U.S.C. SECTION 512)

11 71. As a separate and affirmative defense to each claim pleaded in the
12 Counterclaims, answering Counterdefendant alleges that the Counterclaims,
13 and each claim, is barred in whole or in part by the safe harbors of 17 U.S.C.
14 section 512.
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16 SEVENTH AFFIRMATIVE DEFENSE
17 (LACHES)
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19 72. As a separate and affirmative defense to each cause of action pleaded in the
20 Counterclaims, answering Defendant alleges that Plaintiffs' claims and
21 requests for relief are barred, in whole or in part, by the doctrine of laches.
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23 EIGHTH AFFIRMATIVE DEFENSE
24 (OFF-SET OF DAMAGES)
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26 73. As a separate and affirmative defense to each claim pleaded in the
27 Counterclaims, answering Counterdefendant alleges that any amount sought
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1 to be recovered is barred in whole or in part due to an off-set of damages by
2 virtue of the conduct of Counterclaimant and others responsible for
3 Counterclaimant's alleged damages, if any, which is not admitted but alleged
4 simply for purposes of this affirmative defense.
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7 NINTH AFFIRMATIVE DEFENSE
8 (GOOD FAITH SUBJECTIVE BELIEF)

9 74. Counterdefendant had a good faith subjective belief that the offending
10 activity of Counterclaimant was not a fair use.
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12 TENTH AFFIRMATIVE DEFENSE
13 (FAILURE TO MITIGATE DAMAGES)

14 75. In the event it is determined that Counterclaimant suffered any damages,
15 which is not admitted but simply alleged for purposes of this affirmative
16 defense, then Counterclaimant failed to mitigate her damages.
17

18 ELEVENTH AFFIRMATIVE DEFENSE
19 (ABSENCE OF DAMAGES)

20 76. In the event it is determined that Counterclaimant is successful on any of her
21 counterclaims, which is not admitted but simply alleged for purposes of this
22 affirmative defense, then Counterclaimant suffered no quantifiable damages.
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1 TWELFTH AFFIRMATIVE DEFENSE
2 (LACK OF KNOWLEDGE)

3 77. In the event it is determined that Counterdefendant made any
4 misrepresentations giving rise to liability under 17 U.S.C. 512(f) , which is
5 not admitted but simply alleged for purposes of this affirmative defense, then
6 any misrepresentation was not made knowingly and/or intentionally but
7 rather was a product of mistake and/or misidentification.
8

9 THIRTEENTH AFFIRMATIVE DEFENSE
10 (ADDITIONAL DEFENSES)

11 78. As a separate and affirmative defense to each claim pleaded in the
12 Counterclaims, answering Counterdefendant has insufficient knowledge or
13 information on which to form a belief as to whether she may have additional,
14 as yet unstated, affirmative defenses available. Answering Counterdefendant
15 reserves herein the right to assert additional defenses in the event that
16 discovery indicates that they would be appropriate.
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79. That Counterclaimant take nothing by her Counterclaims as to the answering Counterdefendant;
80. That the Counterclaims be dismissed with prejudice as to the answering Counterdefendant;
81. That answering Counterdefendant be awarded her costs and attorney's fees to the extent allowed by law; and
82. For such other and further relief as the Court may deem just and proper.

Date: September 25, 2023

By: DAVID G. TORRES-SIEGRIST
Attorneys for
Plaintiff/Counterdefendant

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DEMAND FOR JURY TRIAL ON COUNTERCLAIMS

Additionally, Plaintiff/Counterdefendant respectfully demands a jury trial of the present case pursuant to the U.S. Constitution, the California Constitution and applicable California State and Federal Law.

Date: September 25, 2023

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By: 

DAVID G. TORRES-SIEGRIST
Attorneys for
Plaintiff/Counterdefendant



CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

Date: September 25, 2023

TORRES + SIEGRIST

By: 

DAVID G. TORRES-SIEGRIST
Attorneys for
Plaintiff/Counterdefendant



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